IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of:)
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    Harri Okkonen, et al.   )
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Serial No. 10/807,694   )
)
Filed: March 24, 2004   )   **Electronically filed on**
)
For: ELECTRONIC DEVICE   )   **January 19, 2009.**
SUPPORTING MULTIPLE UPDATE)
AGENTS   )
)
Examiner: Chow, Chih Ching)
)
Group Art Unit: 2191   )
)
Confirmation No. 4407   )
)

APPEAL BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicant respectfully requests that the Board of Patent Appeals and Interferences reverse the final rejection of claims 1-39 of the present application. This Appeal Brief is timely because it is being filed within two months of the filing of the Notice of Appeal.

REAL PARTY IN INTEREST
(37 C.F.R. § 41.37(c)(1)(i))

The real party in interest is Hewlett-Packard Development Company, L.P., having a place of business in Houston, Texas.

RELATED APPEALS AND INTERFERENCES
(37 C.F.R. § 41.37(c)(1)(ii))

Not applicable.

STATUS OF THE CLAIMS
(37 C.F.R. § 41.37(c)(1)(iii))

The present application includes claims 1-39, all of which remain rejected.[1] The Applicants identify claims 1-39 as the claims that are being appealed. The text of the pending claims is provided in the Claims Appendix.

STATUS OF AMENDMENTS
(37 C.F.R. § 41.37(c)(1)(iv))

Subsequent to the final rejection of claims 1-39 mailed November 20, 2008, the Applicant filed a Notice of Appeal on January XX, 2009. The Applicants did not amend any of the claims after the Final Office Action was mailed.

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[1] *See* November 20, 2008 Final Office Action.

SUMMARY OF CLAIMED SUBJECT MATTER
(37 C.F.R. § 41.37(c)(1)(v))

Independent claim 1 recites the following:

Independent claim 1 recites an electronic device network.[2] The network comprises a plurality of servers.[3] The network also comprises a plurality of electronic devices communicatively coupled to at least one of the plurality of servers.[4] Each of the electronic devices is adapted to employ at least one of a plurality of update agents resident in the electronic device,[5] wherein the update agent employed is selected to correspond to a type of update information received by the electronic device from the at least one of the plurality of servers,[6] wherein the selected update agent processes the received update information to modify a first version of one of software and firmware in the electronic device to a second version,[7] and wherein the electronic device is also adapted to provision the plurality of update agents with parameters and data used to facilitate update operations in the electronic device.[8] The network also comprises a

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[2] *See* present application at, *e.g.*, page 3, lines 1-2; page 10, lines 19-20; Figure 1, ref. 105.
[3] *See id.*, *e.g.*, at page 3, line 2; page 10, lines 21-23; Figure 1, ref. 135 and 137.
[4] *See id.*, *e.g.*, at page 3, lines 2-3; page 10, lines 21-23; Figure 1, ref. 107.
[5] *See id.*, *e.g.*, at page 3, lines 3-6; page 10, lines 24-27; Figure 1, ref. 107, 113, and 115.
[6] *See id.*, *e.g.*, at page 4, lines 18-20; page 11, lines 12-14; page 12, lines 11-17.
[7] *See id.*, *e.g.*, at page 10, lines 14-16; page 12, lines 11-13.
[8] *See id.*, *e.g.*, at page 3, lines 6-8; page 10, lines 27 – page 11, line 2.

database in each of the plurality of electronic devices for accessing the plurality of

provisioned update agents in a corresponding electronic device.[9]

Independent claim 17 recites the following:

Independent claim 17 recites a method employing a plurality of update agents in

an electronic device in an electronic device network.[10] The method comprises

communicatively coupling a plurality of electronic devices to at least one of a plurality of

servers;[11] selecting at least one of a plurality of update agents resident in the electronic

device to modify a first version of one of software and firmware in the electronic device

to produce an updated version,[12] wherein each of the plurality of update agents is

arranged to process a corresponding type of update information received from the at

least one of a plurality of servers;[13] and provisioning the plurality of update agents with

parameters and data used to facilitate update operations in the electronic device,[14]

wherein a database is used for accessing the plurality of provisioned update agents.[15]

Independent claim 32 recites the following:

Independent claim 32 recites an electronic device operable in an electronic

device network.[16] The electronic device comprises non-volatile memory comprising a

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[9] See id., e.g., at page 5, lines 16-22; page 15, line 19 – page 16, line 15; Figures 2B and 2C.
[10] See id., e.g., at page 5, lines 27-28.
[11] See id., e.g., at page 6, lines 1-2.
[12] See id., e.g., at page 10, lines 14-16; page 12, lines 11-13.
[13] See id., e.g., at page 6, lines 6-8.
[14] See id., e.g., at page 6, lines 4-5.
[15] See id., e.g., at page 5, lines 16-22; page 15, line 19 – page 16, line 15; Figures 2B and 2C.
[16] See id., e.g., at page 10, lines 19-23; Figure 1, ref. 107.

first version of code.[17] The electronic device also comprises communication circuitry for receiving, from at least one server in the electronic device network, update information having an associated type.[18] The electronic device also comprises code resident in and executable by the electronic device,[19] the code comprising a plurality of provisioned update agents selectable to cause processing of a corresponding type of received update information, [20] to update a related code portion of the first version of code to an updated version, [21] wherein a database in the electronic device enables accessing of the plurality of provisioned update agents,[22] wherein the processing modifies the related code portion of the first version of code to produce the updated version,[23] and wherein a provisioned update agent is selected to perform an update based upon the type of the received update information. [24]

Dependent claim 10 recites the following:

Dependent claim 10 recites the network according to claim 1 wherein the electronic device is adapted to invoke an update agent based upon an update currently

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[17] See id., e.g., at page 11, lines 4-7; Figure 1, ref. 111 and 117.
[18] See id., e.g., at page 10, lines 21-23.
[19] See id., e.g., at page 11, lines 3-9.
[20] See id., e.g., at page 4, lines 18-20; page 11, lines 4-6 and 12-14; page 12, lines 11-17.
[21] See id., e.g., at page 10, lines 14-16; page 12, lines 11-13.
[22] See id., e.g., at page 5, lines 16-22; page 15, line 19 – page 16, line 15; Figures 2B and 2C.
[23] See id., e.g., at page 10, lines 14-16.
[24] See id., e.g., at page 4, lines 18-20; page 11, lines 12-14; page 12, lines 11-17.

being processed provided that the update agent is provisioned in the electronic device.[25]

Dependent claim 25 recites the following:

Dependent claim 25 recites the method according to claim 17 comprising invoking an update agent based upon an update currently being processed provided that the update agent is provisioned in the electronic device.[26]

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL
(37 C.F.R. § 41.37(c)(1)(vi))

- Claims 1-4, 6, 7, 10-19, 21, 22, and 25-39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Application Publication No. 2004/0031029 ("Lee") in view of United States Patent No. 6,976,251 ("Myerson").

- Claims 8 and 23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Meyerson, further in view of United States Patent No. 5,708,776 ("Kikinis").

- Claims 5, 9, 20, and 24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Meyerson, further in view of United States Patent Application Publication No. 2003/0065738 ("Yang").

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[25] *See id., e.g.,* at page 4, lines 18-20.
[26] *See id., e.g.,* at page 5, lines 5-7.

ARGUMENT
(37 C.F.R. § 41.37(c)(1)(vii))

The Examiner has maintained the rejections of claims 1-39.

Claims 1-16 should be in condition for allowance at least because none of the cited references, either alone or in combination, teaches, suggests, or otherwise renders obvious "wherein the update agent employed is selected to correspond to a type of update information received by the electronic device from the at least one of the plurality of servers," or "a database in each of the plurality of electronic devices for accessing the plurality of provisioned update agents in a corresponding electronic device," as recited in claim 1.

Claims 17-31 should be in condition for allowance at least because none of the cited references, either alone or in combination, teaches, suggests, or otherwise renders obvious "selecting at least one of a plurality of update agents resident in the electronic device to modify a first version of one of software and firmware in the electronic device to produce an updated version, wherein each of the plurality of update agents is arranged to process a corresponding type of update information received from the at least one of a plurality of servers," or "...wherein a database is used for accessing the plurality of provisioned update agents," as recited in claim 17.

Claims 32-39 should be in condition for allowance at least because none of the cited references, either alone or in combination, teaches, suggests, or otherwise renders obvious "code resident in and executable by the electronic device, the code comprising a plurality of provisioned update agents selectable to cause processing of a

corresponding type of received update information, to update a related code portion of the first version of code to an updated version, wherein a database in the electronic device enables accessing of the plurality of provisioned update agents," or "wherein a provisioned update agent is selected to perform an update based upon the type of the received update information," as recited in claim 32.

I.   **The Cited Art References, Either Alone or in Combination, Do Not Render Claims 1-16 Unpatentable**

Applicants begin by addressing the rejection of claims 1-16.

> The legal concept of *prima facie* obviousness is a procedural tool of examination which applies broadly to all arts. It allocates who has the burden of going forward with production of evidence in each step of the examination process.
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> * * *
>
> The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. **If the examiner does not produce a *prima facie* case, the applicant is under <u>no obligation</u> to submit evidence of nonobviousness**.

See M.P.E.P. at § 2142 (emphasis added). Applicants respectfully submit that the Final Office Action does not present a *prima facie* case of obviousness, and that the cited references fail to teach, suggest, or otherwise render obvious the presently claimed subject matter.

For example, claim 1 recites "[a]n electronic device network, the network comprising: a plurality of servers; a plurality of electronic devices communicatively

coupled to at least one of the plurality of servers, each of the electronic devices being adapted to employ at least one of a plurality of update agents resident in the electronic device, <u>wherein the update agent employed is selected to correspond to a type of update information received by the electronic device from the at least one of the plurality of servers</u>, wherein the selected update agent processes the received update information to modify a first version of one of software and firmware in the electronic device to a second version, and wherein the electronic device is also adapted to provision the plurality of update agents with parameters and data used to facilitate update operations in the electronic device; and <u>a database in each of the plurality of electronic devices for accessing the plurality of provisioned update agents in a corresponding electronic device</u>." As detailed below, Applicants respectfully submit that the cited references fail to teach, suggest, or otherwise render obvious at least "wherein the update agent employed is selected to correspond to a type of update information received by the electronic device from the at least one of the plurality of servers" and "a database in each of the plurality of electronic devices for accessing the plurality of provisioned update agents in a corresponding electronic device."

The Final Office Action maintained certain obviousness rejections set forth in previous office actions. (*See* Final Office Action at p. 5-20.) As pointed out previously,[27] Applicants respectfully submit that the cited references do not teach, suggest, or otherwise render obvious the presently claimed subject matter.

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[27] *See, e.g.*, Responses dated October 5, 2007, and August 19, 2008.

For example, Applicants respectfully submit that the cited references do not render obvious at least "wherein the update agent employed is selected to correspond to a type of update information received by the electronic device from the at least one of the plurality of servers." While Applicants appreciate the Office Action's recognition that Lee "does not mention 'update agent is selected to correspond to a type of update information'" (*see* Office Action at p. 6), Applicants respectfully traverse the Office Action's assertion that Meyerson teaches that aspect of claim 1. In making that assertion, the Office Action cites to Meyerson at 4:38-50 and 4:10-16. The first cited portion, namely Meyerson at 4:10-16, reads as follows:

> Once flow has started, it proceeds to block 12 where the intelligent update agent sends a software update query comprising a request for software update information. The software update query is sent over a computer network, such as the Internet. In one implementation of the invention, the intelligent update agent is designed specifically for and may be incorporated into particular software.

(emphasis added). Applicants respectfully submit that the above cited disclosure is silent with respect to the selection of an update agent. Such a disclosure does not teach, suggest, or otherwise render obvious "wherein the update agent employed is selected to correspond to a type of update information received by the electronic device from the at least one of the plurality of servers." The presently claimed subject matter is quite different, and patentably distinct, from such an agent that merely "sends a software update query comprising a request for software update information." In the presently claimed subject matter, in contrast, the update agent employed is selected to correspond to a type of update information received by the electronic device. Put another way, in claim 1, an update agent is selected to correspond to received information, but, on the other hand, in Meyerson, it is the update agent itself that

requests software update information. The cited portion of Meyerson does not teach underline selection of an update agent based on a type of information received, but instead teaches, in contrast, only an update agent that requests the information to be received. Because Meyerson's update agent makes the query comprising a request for the update information, Meyerson's update agent must necessarily be employed before the update information is received, and therefore the update agent of Meyerson may not be selected to correspond to a type of update information received. The update agent of Meyerson cannot be selected based on the update information received when it is the update agent in Meyerson that initiates the request for the update information in the first place.

Even if, *arguendo*, the update agent in Meyerson is somehow correlated or associated with update information, such a disclosure would not teach selection of the update agent to correspond to a type of update information received. Indeed, by teaching that the update agent requests the information, Applicants respectfully submit that Meyerson teaches against selection of an update agent to correspond to information received, as, for example, Meyerson teaches employment of the update agent before any information is received or even known. In the presently claimed subject matter, the update agent is selected to correspond to received update information; however, in Meyerson, the update agent is employed before information is received (as it makes the request) and therefore is not "selected" as claimed, let alone to correspond to a type of received update information.

As a further example, Meyerson states, "In one implementation of the invention, the intelligent update agent is designed specifically for and may be incorporated into particular software." Such an agent, incorporated as part of software, would not be "selected to correspond to a type of update information received." Again, such an incorporated agent would teach against selection of an update agent to correspond to a type of update information, as there would be no point in "selecting" an update agent

already incorporated into particular software. Such a disclosure also teaches against other aspects of claim 1, such as the use of a database for accessing the plurality of provisioned update agents. Again, where the agent is incorporated into particular software, use of a database for accessing such an agent (that is already incorporated into the software) would appear to be pointless.

The other portion of Meyerson relied upon in connection with this aspect of the presently claimed subject matter, namely 4:38-50, reads as follows:

> After the software update query is sent, the software update information is downloaded in block 14. In the simplest case, where the update agent corresponds to a single software program, the software update information may simply be a "yes" or "no" telling the agent whether a software update is available and whether a criticality check program is available. In the more general case, however, the software update information will include substantial additional information for multiple software programs. In the preferred implementation of the invention, the software update information will include a field telling the update agent whether a criticality check program is available for each software update.

Applicants respectfully submit that the above cited disclosure is silent with respect to the <u>selection</u> of an update agent. Further, Applicants respectfully submit that this portion does not remedy the previously discussed deficiencies, and does not disclose the presently claimed subject matter. Again, even if the update agent of Meyerson, *arguendo*, "corresponds" to a "single software program," the update agent of Meyerson is still not <u>selected to correspond to a type of update information</u>. A mere correspondence does not teach, suggest, or otherwise render obvious the selection as claimed, and Applicants respectfully submit that there is a patentable distinction between a mere correspondence and a selection as claimed. In fact, because it is the update agent of Meyerson that "sends a software update query comprising a request for software update information" in the first place, the update agent of Meyerson can not be

selected to correspond to received update information, as the update agent of Meyerson is employed before the requested software update information is even known. Thus, any asserted "correspondence" in Meyerson not only does not teach the presently claimed subject matter, but in fact teaches against it. Meyerson teaches that the update agent is used to request information. In stark contrast, in the presently claimed subject matter, the update agent is selected to correspond to received information.

This is even more so with respect to, for example, dependent claim 10, which recites that "the electronic device is adapted to invoke an update agent based upon an update currently being processed..." (*See* also claim 25.) The Office Action provides no explanation of how or why an agent that requests information could somehow be invoked based upon an update currently being processed — without the request from the agent of Meyerson, the update would not be processed, and the update agent of Meyerson could not be invoked based on an "update currently being processed" as claimed, as the update in Meyerson would not be processed without the initial request from the agent.

From the foregoing, Applicants respectfully submit that Meyerson, either alone or in combination with Lee, cannot teach, suggest, or otherwise render obvious the selection of an update agent to correspond to a type of update information received by the electronic device for at least several reasons. First, the mere asserted "correspondence" of the cited art does not teach or suggest the selection as claimed. Further, because the update agent of Meyerson sends the request for update information in the first place, Meyerson in fact teaches against the presently claimed subject matter (the update agent of Meyerson cannot somehow later be "selected" to correspond to information received in response to its own request). Further still, if the "corresponding update agent" of Meyerson were somehow combined with Lee, the asserted combination would still not teach, suggest, or otherwise render obvious the

presently claimed subject matter, as such a combination would not disclose at least "wherein the update agent employed is selected to correspond to a type of update information received by the electronic device from the at least one of the plurality of servers." As such, Applicants respectfully submit that claim 1, and all of its dependent claims, are therefore allowable over the combination of Lee and Meyerson.

In response to previous submissions, the Final Office Action asserts,

> Meyerson's teaching also implies distributing specific software updates through a corresponding agent; regardless the query part, Meyerson's teaching covers the feature that is recited in the current invention. Meyerson's teaching is for effective installations, a specific agent delivers specific software update to the designated location, see Meyerson's column 4, lines 15-22; "the intelligent update agent is designed specifically for and may be incorporated into particular software. The agent will then include the address of a particular location maintained by the software publisher that corresponds to the software. In this type of implementation, the software update query contains very little information. The software publisher knows that all queries arriving at a particular location are requests for software update information corresponding to that location." further see column 4, lines 23-25, "In a more general implementation of the invention, the update agent may be designed by a particular software publisher to handle all of the publisher's software.". – the agent doesn't request update information, the agent has all the update information it sends out update information to its designated locations.

(Office Action at p. 3-4.)

Applicants respectfully submit that such an assertion does not remedy the shortcomings of the cited art. Such a purported <u>correspondence</u> still does not teach the claimed <u>selection</u>. Whether or not "a specific agent delivers specific software update"

misses the point – such a disclosure does not teach the required selection of the update agent as claimed. Further, the Office Action asserts that Meyerson teaches <u>delivery</u> of a specific software update by an agent, whereas the presently claimed subject matter claims the selection of the update agent to correspond to received update information. The two are very different – an update agent that is employed to request update information (and/or deliver update information as asserted by the Office Action) is very different from an update agent that is selected to correspond to information that is received. As such, Applicants again respectfully submit that claim 1, and all of its dependent claims, are allowable over the combination of Lee and Meyerson.

While the above identified deficiencies in the teachings of the cited art alone are sufficient for the allowability of claim 1 (and its dependent claims), Applicants further respectfully submit that these claims are additionally allowable over Lee and Meyerson for additional reasons. For example, claim 1 also recites "<u>a database in each of the plurality of electronic devices for accessing the plurality of provisioned update agents in a corresponding electronic device.</u>" Applicants respectfully submit that the cited art does not teach, suggest, or otherwise render obvious at least this aspect of claim 1 as well.

Regarding "a database in each of the plurality of electronic devices for accessing the plurality of provisioned update agents in a corresponding electronic device," the Final Office Action asserts that "Lee's teaching includes a database, see Lee's Abstract, 'the method includes ascertaining from a database first update parameters associated

with a first networked device of the plurality of networked devices.' Further see Lee's paragraph [002], 'In a small business, for example, there is ideally a binder or a database tracking information pertaining to all the networked devices and the various hardware and software components installed thereon.'"

As an initial matter, it appears that the Office Action is no longer asserting the database as being inherent in Lee. While Applicants appreciate the apparent recognition that a database as claimed is not inherent in Lee, Applicants respectfully traverse the assertion in the Office Action that Lee teaches a database as claimed.

Instead, Lee is quite different from the presently claimed subject matter. For example, the Office Action relies on Lee's asserted teaching of "ascertaining from a database first update parameters associated with a first networked device of the plurality of networked devices." Applicants submit that such a teaching falls far short of rendering obvious the presently claimed subject matter.

For example, the cited portion of Lee recites a "database," but is silent with respect to a database in each of the plurality of electronic devices as claimed. In fact, the cited portions of Lee teach against having the database of Lee located in each of the plurality of electronic devices. For example, the Office Action also cites Lee as teaching, "In a small business, for example, there is ideally a binder or a database tracking information pertaining to all the networked devices and the various hardware and software components installed thereon." Such an "ideal" binder or database would not teach a database in each of the plurality of electronic devices, but would instead

would be a single, centralized binder or database not located in each of the devices, as

it "pertain[s] to <u>all</u> the networked devices." Lee further states in the abstract that "[t]he

method also includes <u>sending via the network the first update parameters</u> to a first local

update agent disposed at the first networked device." But, it is the update parameters in

Lee that are "ascertain[ed] from a database." If such a database were located in each

of the plurality of electronic devices, as claimed, then it would not make sense to send,

via the network, the parameters from the database. In Lee, because the information

from the purported database is sent, via the network, to a networked device, the

database in Lee is not located at the networked device. The presently claimed subject

matter, however, recites, *inter alia*, a database in each of the plurality of electronic

devices. As such, Lee cannot teach, suggest, or otherwise render obvious the

database as claimed by claim 1.

Further, for example, the asserted teaching of Lee merely relates to a database

regarding "update parameters." The presently claimed subject matter, in contrast,

includes "a database in each of the plurality of electronic devices <u>for accessing the</u>

<u>plurality of provisioned update agents in a corresponding electronic device</u>."

Applicants further respectfully submit that a combination of Lee and Meyerson

would not teach, suggest, or otherwise render obvious the presently claimed subject

matter. For example, such a combination would not teach or result in an electronic

device network "wherein <u>the update agent employed</u> **is selected** <u>to correspond to a</u>

<u>type of update information received by the electronic device</u> from the at least one of the

plurality of servers." Again, the update agent of the proposed combination would not be selected to correspond to a type of update information received, but instead would itself request the update information. Thus, the combination would not result in or suggest the selection as claimed, let alone the database as claimed, as such a "database" would neither be in each of the plurality of electronic devices, nor be for accessing the plurality of provisioned update agents in a corresponding electronic device. Instead, such a combination would teach an update agent that requested information instead of being selected to correspond to received information, and would, in any event, utilize a database, if at all, not located in each of the electronic devices. Further, because Meyerson teaches update agents that request update information and, in some instances, are incorporated in the software itself, Meyerson would even teach against any combination that could or would result in the use of a database as claimed. Further still, even if accepting, *arguendo*, the Office Action's assertion that "the agent doesn't request update information, the agent has all the update information it sends out update information to its designated locations" (*see* Office Action at p. 3-4), such an agent that "sends out update information to its designated locations," would also appear to teach against selecting an agent utilizing a database located in each of the electronic devices as claimed.

For at least the reasons discussed above, Applicants respectfully submit that claims 1-16 are allowable over the cited art.

II.   **The Cited Art References, Either Alone or in Combination, Do Not Render Claims 17-31 Unpatentable**

Applicants note that the Office Action relies on the same portions of cited art in rejecting claim 17 as it does for claim 1. (*See* Office Action at p. 11.) Applicants further note that claim 17 recites a method employing a plurality of update agents in an electronic device in an electronic device network comprising, *inter alia*, "selecting at least one of a plurality of update agents resident in the electronic device to modify a first version of one of software and firmware in the electronic device to produce an updated version, wherein each of the plurality of update agents is arranged to process a corresponding type of update information received from the at least one of a plurality of servers" and "...wherein a database is used for accessing the plurality of provisioned update agents." Similar to the discussion above, Applicants respectfully submit that the Office Action does not present a *prima facie* case of obviousness for at least those aspects of claim 17, and that the cited art, either alone or in combination, does not teach, suggest, or otherwise render obvious claim 17 or any of claims 18-31 that depend from claim 17.

III.   **The Cited Art References, Either Alone or in Combination, Do Not Render Claims 32-39 Unpatentable**

Applicants note that the Office Action relies on similar portions of cited art in rejecting claim 32 as it does for claim 1. (*See* Office Action at p. 14.) Applicants further note that claim 32 recites an electronic device comprising, *inter alia*, "code resident in and executable by the electronic device, the code comprising a plurality of provisioned

update agents selectable to cause processing of a corresponding type of received update information, to update a related code portion of the first version of code to an updated version, <u>wherein a database in the electronic device enables accessing of the plurality of provisioned update agents</u>" and "wherein a provisioned update agent is <u>selected to perform an update based upon the type of the received update information</u>."

Similar to the discussion above, Applicants respectfully submit that the Office Action does not present a *prima facie* case of obviousness for at least those aspects of claim 32, and that the cited art, either alone or in combination, does not teach, suggest, or otherwise render obvious claim 32 or any of claims 33-39 that depend from claim 32.

IV. Conclusion

For at least the reasons discussed above, the Applicant respectfully submits that the pending claims are allowable in all respects. Therefore, the Board is respectfully requested to reverse the rejections of pending claims 1-39.

Date: _____January 19, 2009_____   Respectfully submitted,

Hewlett-Packard Company   _____/Kevin E. Borg/_____
Intellectual Property Administration   Kevin E. Borg
Legal Department, M/S 35   Reg. No. 51,486
P.O. Box 272400
Fort Collins, CO 80527-2400

CLAIMS APPENDIX
(37 C.F.R. § 41.37(c)(1)(viii))

1. An electronic device network, the network comprising:

a plurality of servers;

a plurality of electronic devices communicatively coupled to at least one of the plurality of servers, each of the electronic devices being adapted to employ at least one of a plurality of update agents resident in the electronic device, wherein the update agent employed is selected to correspond to a type of update information received by the electronic device from the at least one of the plurality of servers, wherein the selected update agent processes the received update information to modify a first version of one of software and firmware in the electronic device to a second version, and wherein the electronic device is also adapted to provision the plurality of update agents with parameters and data used to facilitate update operations in the electronic device; and

a database in each of the plurality of electronic devices for accessing the plurality of provisioned update agents in a corresponding electronic device.

2. The network according to claim 1, wherein the electronic device comprises random access memory and non-volatile memory, wherein the non-volatile memory comprises a plurality of components, the plurality of components comprising at least one of the following: an update application loader, the plurality of update agents, firmware, an operating system (OS), and provisioned data, and wherein the provisioned data comprises update agent provisioning information and a number assignment module.

3. The network according to claim 1, wherein the network comprises at least one of an update server, and a plurality of generators, wherein the generators are adapted to generate updates able to be processed by at least one provisioned update agent in

the electronic device, and wherein the update server is adapted to store updates accessible by the plurality of servers.

4. The network according to claim 1, wherein the electronic device comprises a provisioned data unit adapted to store information related to an end-user's electronic device subscription, and wherein the provisioned data unit may be programmed during number assignment module programming activity.

5. The network according to claim 4, wherein the number assignment module programming activity comprises at least one of over-the-air service provisioning (OTASP) activity and over-the-air parameter administration (OTAPA) activity.

6. The network according to claim 4, wherein the provisioned data unit is adapted to store at least one of update agent related provisioning information, a universal resource locator of a server used to retrieve updates, and a security key used to authenticate server messages.

7. The network according to claim 4, wherein each of the plurality of update agents has a corresponding entry in the provisioned data unit.

8. The network according to claim 1, wherein one of the plurality of update agents is designated a primary update agent and another of the plurality of update agents is designated as a secondary update agent, and wherein the primary update agent is used to perform updates during one of power up and reboot of the electronic device and the secondary update agent is used to perform updates not requiring electronic device rebooting.

9. The network according to claim 1, wherein the electronic device is adapted to display a list of available update agents to an end-user and solicit selection of an update agent to be used to update at least one of software and firmware.

10. The network according to claim 1, wherein the electronic device is adapted to invoke an update agent based upon an update currently being processed provided that the update agent is provisioned in the electronic device.

11. The network according to claim 1, wherein the electronic device may execute an update application loader on reboot, and wherein the update application loader is adapted to invoke a boot initialization code before determining to update the electronic device.

12. The network according to claim 1, comprising update agent provisioning information stored in the electronic device, the update agent provisioning information comprising at least one of the following: a device server URL, an index to the database for accessing the plurality of provisioned update agents, a security key, and electronic device related information, wherein the device server URL provides references to servers hosting updates to be downloaded, and wherein the updates are compatible with update agents currently available and provisioned in the electronic device.

13. The network according to claim 12, wherein the index to the database for accessing the plurality of provisioned update agents provides an index value used to compute an address location of a provisioned update agent, and wherein the index to the database for accessing the plurality of provisioned update agents provides an index to a table containing an address for an update agent in non-volatile memory the electronic device.

14. The network according to claim 12, wherein the security key is used to authenticate updates during download of updates and during update activity, wherein a separate security key is employed to authenticate updates by a download agent and by the update agent, and wherein the security key is employed for at least one of the following: secure communication, encryption, and decryption of data and messages during communication with external systems.

15. The network according to claim 1, wherein the database for accessing the plurality of provisioned update agents in the electronic device comprises an update agent table resident in non-volatile memory, the update agent table containing references to a plurality of update agents currently available and provisioned in the electronic device, the update agent table associating update agent names, update agent address locations, types of updates that the update agents are adapted to process, and provisioning status of the update agents for all available update agents in the electronic device.

16. The network according to claim 1, wherein the electronic device comprises at least one of a plurality of mobile electronic devices, and wherein the plurality of mobile electronic devices comprise at least one of the following: a mobile cellular phone handset, a personal digital assistant, a pager, an MP3 player, and a digital camera.

17. A method employing a plurality of update agents in an electronic device in an electronic device network, the method comprising:

communicatively coupling a plurality of electronic devices to at least one of a plurality of servers;

selecting at least one of a plurality of update agents resident in the electronic device to modify a first version of one of software and firmware in the electronic device to produce an updated version, wherein each of the plurality of update agents is arranged to process a corresponding type of update information received from the at least one of a plurality of servers; and

provisioning the plurality of update agents with parameters and data used to facilitate update operations in the electronic device, wherein a database is used for accessing the plurality of provisioned update agents.

18. The method according to claim 17, comprising generating updates able to be processed by at least one provisioned update agent in the electronic device and storing updates in an update server.

19.   The method according to claim 17, comprising:

storing information related to an end-user's electronic device subscription; and

programming a provisioned data unit during number assignment module programming activity.

20. The method according to claim 19, wherein the number assignment module programming activity comprises at least one of the following: over-the-air service provisioning (OTASP) activity and over-the-air parameter administration (OTAPA) activity.

21. The method according to claim 19, wherein the programming comprises storing update agent related provisioning information, a universal resource locator of a server used to retrieve updates, and a security key used to authenticate server messages.

22. The method according to claim 19, comprising providing each update agent an entry in a provisioned data unit.

23. The method according to claim 17, comprising:

designating a primary update agent and a secondary update agent;

using the primary update agent to perform updates during one of the following: power up and reboot of the electronic device; and

using the secondary update agent to perform updates not requiring electronic device rebooting.

24. The method according to claim 17, comprising:

displaying a list of available update agents to an end-user; and

soliciting selection of an update agent to be used to update at least one of software and firmware.

25. The method according to claim 17, comprising invoking an update agent based upon an update currently being processed provided that the update agent is provisioned in the electronic device.

26. The method according to claim 17, comprising executing an update application loader on reboot of the electronic device and invoking a boot initialization code before determining to update the electronic device.

27. The method according to claim 17, comprising:

storing update agent provisioning information in the electronic device; and

hosting updates to be downloaded with update agents provisioned in the electronic device.

28. The method according to claim 17, comprising determining an address location of a provisioned update agent via the database for accessing the plurality of provisioned update agents, wherein determining comprises one of computing and accessing an entry in a table.

29. The method according to claim 17, comprising:

authenticating updates during download of the updates and during update activity, using a security key;

employing a separate security key to authenticate updates by a download agent and by the at least one of a plurality of update agents; and

employing the security key for at least one of the following: secure communication, encryption, and decryption of data and messages, during communication with external systems.

30. The method according to claim 17, comprising mapping at least one of the following: update agent names, update agent address locations, types of updates that the update agents are adapted to process, and provisioning status of the update agents, for all available update agents in the electronic device.

31. The method according to claim 17, wherein the electronic device comprises at least one of the following: a plurality of mobile electronic devices, and wherein the plurality of mobile electronic devices comprise at least one of a mobile cellular phone handset, a personal digital assistant, a pager, an MP3 player, and a digital camera.

32. An electronic device operable in an electronic device network, the electronic device comprising:

        non-volatile memory comprising a first version of code;

        communication circuitry for receiving, from at least one server in the electronic device network, update information having an associated type;

        code resident in and executable by the electronic device, the code comprising a plurality of provisioned update agents selectable to cause processing of a corresponding type of received update information, to update a related code portion of the first version of code to an updated version, wherein a database in the electronic device enables accessing of the plurality of provisioned update agents;

        wherein the processing modifies the related code portion of the first version of code to produce the updated version; and

        wherein a provisioned update agent is selected to perform an update based upon the type of the received update information.

33. The electronic device according to claim 32 wherein the communication circuitry comprises a cellular network interface.

34. The electronic device according to claim 32 wherein the update information comprises an update package.

35. The electronic device according to claim 32 wherein a portion of the non-volatile memory comprises provisioned data received from at least one of the plurality of servers.

36. The electronic device according to claim 35 wherein the provisioned data comprises at least one entry corresponding to one of the plurality of provisioned update agents.

37. The electronic device according to claim 35 wherein programming of provisioned data is performed during programming of information related to a wireless service subscription.

38. The electronic device according to claim 35 wherein provisioned data comprises a universal resource locator of a server on which a corresponding type of update information is stored.

39. The electronic device according to claim 35 wherein provisioned data comprises security information enabling update of the related code portion.

EVIDENCE APPENDIX
(37 C.F.R. § 41.37(c)(1)(ix))

(1)   United States Application Publication No. 2004/0031029 ("Lee"), entered into record by Examiner in March 14, 2006 Office Action.

(2)   United States Patent No. 6,976,251 ("Meyerson"), entered into record by Examiner in October 24, 2006 Office Action.

(3)   United States Patent No. 5,708,776 ("Kikinis"), entered into record by Examiner in February 28, 2005 Office Action.

(4)   United States Application Publication No. 2003/0065738 ("Yang"), entered into record by Examiner in July 10, 2007 Office Action.

RELATED PROCEEDINGS APPENDIX

(37 C.F.R. § 41.37(c)(1)(x))

Not applicable.